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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,726	06/23/2003	Michael T. Ansay	82839	9377

7590

06/01/2004

Office Of Counsel  
Naval Undersea Warfare Center Division  
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EXAMINER

BASINGER, SHERMAN D

ART UNIT PAPER NUMBER

3617

DATE MAILED: 06/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/600,726

Applicant(s)

ANSAY ET AL

Examiner

Sherman D. Basinger

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 11 is/are rejected.
- 7) ☒ Claim(s) 5, 7-10 and 12-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11 "the ballast tank" has no clear antecedent.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carroll, III et al in view of Dell' Aria et al.

The underwater body storage and launch assembly 32 of Carroll, III et al is not adapted to be mounted outside the pressure hull of a submarine. Note the underwater body storage and launch assembly 9 adapted for mount outside the pressure hull of a submarine of Dell' Aria et al. Note that the lower end of tube 9 of Dell' Aria et al extends outside the hull such that it is mounted outside the hull.

Art Unit: 3617

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use in place of TDU 32 of Carroll, III et al a tube similar to 9 of Dell' Aria et al to launch vehicle 10 of Carroll, III et al. Motivation to do so can be found in column 3, lines 57-60.

The body is 10 of Carroll, III et al, the housing is similar to tube 9 of Dell' Aria et al, the body support structure includes at least support unit 48 of Carroll, III et al, the pressure regulator is 74 of Carroll, III et al, the hatch is similar to 17 of Dell' Aria et al with an actuator for opening the hatch being inherently present and the release mechanism includes slip line 66 of Carroll, III et al.

The weight of claim 2 is 72 of Carroll, III et al.

Claim 3 is inherently met by the tube 9 of Dell' Aria et al and TDU 32 of Carroll, III et al in that if each is not watertight and adapted to withstand pressures at depths at least equal to the deepest operating depths of the submarine, the submarine would sink at such depths.

Claim 4 is met in that if valve 74 does not allow the TDU 32 to be pressurized to a pressure equal to water pressure outside the housing, the vehicle 10 could not be effectively launched.

For claim 6, note column 5, lines 45-50.

#### ***Allowable Subject Matter***

5. Claims 5, 7-10, 12, 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Loeser et al is cited to show the tactical expendable device. Vass et al is cited to show the underwater missile launcher. Brooks et al is cited to show launching assembly 20. Stohrer et al is cited to show the SXBT assembly 10.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/600,726

Page 5

Art Unit: 3617

  
Sherman D. Basinger  
Primary Examiner  
Art Unit 3617

5/24/04

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